

REMARKS

Claims 1-24, 26-29, and 31-45 are currently pending in this application. Claims 31-41 have been withdrawn from consideration, as they are pending in a related application. Claims 25 and 30 have been cancelled. Claims 42-45 have been added. Claims 1, 7-10, 13, 16, 24, and 27 have been amended to further clarify the method of the present invention.

DOUBLE PATENTING

Claims 1-30 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-89 of copending Application No. 09/943,187 to Campbell et al. Application No. 09/943,187 is still pending as of the date of the filing of this Amendment. Since both applications are pending, and it is unclear which will issue first, applicants will provide a terminal disclaimer complying with 37 C.F.R. § 1.321(c), in the current application or in co-pending Application No. 09/943,187 when necessary. Accordingly, Applicants respectfully request that compliance with this rejection by a terminal disclaimer be held in abeyance pending the indication of either application's allowance.

Claims 1-30 further stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-33 of copending Application No. 09/943,199 to Campbell et al. Application No. 09/943,199 is still pending as of the date of the filing of this Amendment. For the reasons stated above, Applicants respectfully request that compliance with this rejection by a terminal disclaimer be held in abeyance pending the indication of either application's allowance.

35 U.S.C. § 102 REJECTIONS

Claims 1-6, 11-16, 20, 23-24, and 26-29 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,638,820 to Moore ("Moore"). Applicant respectfully traverses this rejection.

The claimed invention relates to methods of forming a chalcogenide comprising devices and more particularly to such methods which enable a chalcogenide glass layer to remain in an amorphous state after photodoping. As such, amended independent claims 1 and 13 each require a metal comprising layer having a "thickness being less than, but not within 10% of a transition thickness of said metal comprising layer," where the transition thickness is a thickness of said metal layer which, when diffused into said chalcogenide comprising material, transforms said chalcogenide comprising material from an amorphous to a crystalline state. Similarly, independent claims 16 and 17 each require photo-diffusing at least some of a metal containing layer into a chalcogenide comprising material with the "chalcogenide comprising material remaining amorphous after the irradiating." Such a method is not anticipated by Moore. Indeed, there is no disclosure in Moore recognizing the thickness limitations, or doping in a way which would maintain the amorphous state of its chalcogenide comprising material. Claims 2-6 and claims 11-12 depend from claim 1 and are therefore allowable with claim 1 for the reasons stated above. Claims 14 and 15 depend from claim 13 and are therefore allowable with claim 13 for the reasons stated above. Claims 20, 23, 24 and 26 depend from claim 16 and are therefore allowable with claim 16 for the reasons stated above. Claim 28 depends from claim 27 and are therefore allowable with claim 27 for the reasons stated above.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: March 24, 2004

Respectfully submitted,

By 

Thomas J. D'Amico

Registration No.: 28,371

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicant